

AMENDED IN ASSEMBLY JUNE 30, 2016  
AMENDED IN ASSEMBLY JUNE 14, 2016  
AMENDED IN ASSEMBLY MARCH 2, 2016  
AMENDED IN ASSEMBLY FEBRUARY 22, 2016  
AMENDED IN ASSEMBLY SEPTEMBER 3, 2015  
AMENDED IN ASSEMBLY JUNE 29, 2015  
AMENDED IN ASSEMBLY JUNE 3, 2015  
AMENDED IN SENATE APRIL 6, 2015

**SENATE BILL**

**No. 438**

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**Introduced by Senators Hill and Hertzberg**

(Principal coauthor: Assembly Member Gray)

**(Coauthors: Senators Allen, Anderson, Beall, and Cannella)**

(Coauthors: Assembly Members Dodd, Gatto, Hadley, Kim, Mullin,  
Rodriguez, and Wilk)

February 25, 2015

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An act to amend Section 8587.8 of, and to add Sections 8587.11 and 8587.12 to, the Government Code, relating to earthquake safety, and ~~making an appropriation therefor.~~ *safety.*

LEGISLATIVE COUNSEL'S DIGEST

SB 438, as amended, Hill. Earthquake safety: statewide earthquake early warning program and system.

(1) The California Emergency Services Act requires the Office of Emergency Services, among other things, to develop in collaboration with specified entities a comprehensive statewide earthquake early

warning system in California through a public-private partnership, as specified. Existing law requires the office to identify funding for the system through single or multiple sources of revenue, and requires those sources to exclude the General Fund and to be limited to federal funds, funds from revenue bonds, local funds, and funds from private sources. Under the act, the requirement that the office develop the system is not operative until funding is identified, and is repealed if funding is not identified by July 1, 2016. The act establishes the California Earthquake Safety Fund in the State Treasury to be used, upon appropriation by the Legislature, for seismic safety and earthquake-related programs, including the statewide earthquake early warning system.

This bill would discontinue the requirement that the funding sources for the system exclude the General Fund and be limited to federal funds, funds from revenue bonds, local funds, and funds from private sources. The bill would delete the provisions providing for the repeal and the contingent operation of the requirement that the office develop the system. ~~The bill would appropriate \$23,100,000 from the General Fund to the office for the purpose of implementing the system, thereby making an appropriation.~~

This bill would establish, within the office, the California Earthquake Early Warning Program and the California Earthquake Early Warning Advisory Board to support the development of the statewide earthquake early warning system, as specified. The bill would require the board to include 7 voting members, as specified, and the Chancellor of the California State University, or his or her designee, who would serve as a nonvoting member. The bill would authorize the President of the University of California, or his or her designee, to serve as an additional nonvoting member of the board. The bill would require all members to serve without compensation, but would require reimbursement for actual and reasonable travel and meal expenses to attend board meetings. The bill would require the board to comply with existing state open meeting and public record disclosure laws and would prohibit the disclosure of any information in a public record that is a trade secret, as defined, of a private entity cooperating with the board or participating in the statewide earthquake early warning system or the program. The bill would make legislative findings in support of its provisions.

(2) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating

the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote:  $\frac{2}{3}$ -majority. Appropriation: ~~yes~~-no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) Effective and sustainable implementation of a statewide  
4 earthquake early warning system, as funded through the California  
5 Earthquake Safety Fund, requires a governance structure that  
6 coordinates the multiple entities involved in establishing and  
7 operating the different functional areas of the system, including,  
8 but not limited to, system operations, research and development,  
9 finance and investment, and training and education.

10 (b) Each of the functional areas necessary for a statewide  
11 earthquake early warning system consists of designated working  
12 groups that include subject matter experts and stakeholders in the  
13 public and private sectors.

14 (c) The California Earthquake Early Warning Advisory Board  
15 is intended to advise the Director of Emergency Services on  
16 implementation of the earthquake early warning program.

17 SEC. 2. Section 8587.8 of the Government Code is amended  
18 to read:

19 8587.8. (a) The Office of Emergency Services, in collaboration  
20 with the California Institute of Technology (Caltech), the California  
21 Geological Survey, the University of California, the United States  
22 Geological Survey, the Alfred E. Alquist Seismic Safety  
23 Commission, and other stakeholders, shall develop a  
24 comprehensive statewide earthquake early warning system in  
25 California through a public-private partnership, which shall include,  
26 but not be limited to, the following features:

27 (1) Installation of field sensors.

28 (2) Improvement of field telemetry.

29 (3) Construction and testing of central processing and  
30 notification centers.

31 (4) Establishment of warning notification distribution paths to  
32 the public.

1 (5) Integration of earthquake early warning education with  
2 general earthquake preparedness efforts.

3 (b) In consultation with stakeholders, the Office of Emergency  
4 Services shall develop an approval mechanism to review  
5 compliance with earthquake early warning standards as they are  
6 developed. The development of the approval mechanism shall  
7 include input from a broad representation of earthquake early  
8 warning stakeholders. The approval mechanism shall accomplish  
9 all of the following:

10 (1) Ensure the standards are appropriate.

11 (2) Determine the degree to which the standards apply to  
12 providers and components of the system.

13 (3) Determine methods to ensure compliance with the standards.

14 (4) Determine requirements for participation in the system.

15 (c) The Office of Emergency Services shall identify funding  
16 for the system described in subdivision (a) through single or  
17 multiple sources of revenue.

18 SEC. 3. Section 8587.11 is added to the Government Code, to  
19 read:

20 8587.11. (a) There is in state government, within the office,  
21 both of the following:

22 (1) The California Earthquake Early Warning Program.

23 (2) The California Earthquake Early Warning Advisory Board.

24 (b) The following definitions apply to this section and Section  
25 8587.12:

26 (1) "Board" means the California Earthquake Early Warning  
27 Advisory Board.

28 (2) "Program" means the California Earthquake Early Warning  
29 Program.

30 (3) "System" means the statewide earthquake early warning  
31 system.

32 (c) (1) The board shall be composed of the following eight  
33 members:

34 (A) Seven voting members, as follows:

35 (i) The Secretary of the Natural Resources Agency, or his or  
36 her designee.

37 (ii) The Secretary of California Health and Human Services, or  
38 his or her designee.

39 (iii) The Secretary of Transportation, or his or her designee.

1 (iv) The Secretary of Business, Consumer Services, and  
2 Housing, or his or her designee.

3 (v) One member who is appointed by, and serves at the pleasure  
4 of, the Speaker of the Assembly and represents the interests of  
5 private businesses.

6 (vi) One member who is appointed by, and serves at the pleasure  
7 of, the Governor and represents the utilities industry.

8 (vii) One member ~~appointed by~~ *who is appointed by, and serves*  
9 *at the pleasure of, the Senate Committee on Rules representing*  
10 ~~county government whose term of office shall be four years to run~~  
11 ~~with the officer or incumbent. The Senate Committee on Rules~~  
12 ~~shall appoint, on an alternating basis, a member who resides in~~  
13 ~~northern or southern California, and represents county government.~~

14 (B) The Chancellor of the California State University, or his or  
15 her designee, shall serve as a nonvoting member of the board.

16 (2) The President of the University of California, or his or her  
17 designee, may serve as a nonvoting member of the board.

18 (3) The members of the board shall serve without compensation,  
19 but shall be reimbursed for actual and reasonable travel and meal  
20 expenses to attend board meetings.

21 (d) (1) The board shall convene periodically and advise the  
22 director on all aspects of the program, including, but not limited  
23 to, the following functional areas of the program:

24 (A) System operations.

25 (B) Research and development.

26 (C) Finance and investment.

27 (D) Training and education.

28 (2) The board shall utilize committees, groups, and  
29 organizations, including, but not limited to, the California Institute  
30 of Technology, the California Geological Survey, the University  
31 of California, the United States Geological Survey, and entities  
32 participating in the critical infrastructure sectors to fulfill the  
33 objectives of the program by supporting the functional areas of  
34 the system.

35 (3) The board shall inform the public regarding, and provide  
36 the public with the opportunity to engage the board on, the  
37 development and implementation of the system.

38 (4) The board shall consult with program participants, state  
39 agencies, departments, boards and commissions, private businesses,  
40 postsecondary educational institutions, and subject matter experts,

1 as necessary, to advise the board on the development,  
2 implementation, and maintenance of the system.

3 (e) (1) Except as otherwise provided by law, the California  
4 Integrated Seismic Network shall be responsible for the generation  
5 of an earthquake early warning alert and related system operations.

6 (2) The board shall, in conjunction with the director, determine  
7 the appropriate methods to provide the public with an earthquake  
8 early warning alert.

9 (f) (1) The board shall comply with the Bagley-Keene Open  
10 Meeting Act (Article 9 (commencing with Section 11120) of  
11 Chapter 1 of Part 1 of Division 3) and the California Public Records  
12 Act (Chapter 3.5 (commencing with Section 6250) of Division 7  
13 of Title 1).

14 (2) Notwithstanding any law, including, but not limited to, the  
15 California Public Records Act (Chapter 3.5 (commencing with  
16 Section 6250) of Division 7 of Title 1), any information in a public  
17 record that is a trade secret, as that term is defined in Section  
18 3426.1 of the Civil Code, of a private entity cooperating with the  
19 board or participating in the system or with the program is  
20 confidential and shall not be disclosed.

21 SEC. 4. Section 8587.12 is added to the Government Code, to  
22 read:

23 8587.12. (a) On or before February 1, 2018, the office, in  
24 consultation with the board, shall develop and submit a business  
25 plan for the program to the Senate Committee on Governmental  
26 Organization, the Assembly Committee on Governmental  
27 Organization, the Senate Budget and Fiscal Review Committee,  
28 the Assembly Committee on Budget, and the Legislative Analyst's  
29 Office. The business plan shall include, but not be limited to, all  
30 of the following elements:

31 (1) The funding plan for the program and the estimated costs  
32 associated with the program. The funding plan shall include, but  
33 not be limited to, all of the following:

34 (A) Specific cost estimates for each component of the program,  
35 including, but not limited to, education and outreach costs, staff  
36 costs, and the capital costs, operation costs, and maintenance costs  
37 of the system.

38 (B) Identification of specific sources of funding, including, but  
39 not limited to, federal funds, funds from revenue bonds, local  
40 funds, general funds, special funds, funds from private sources,

1 and funding from any written agreements with public or private  
2 entities to fund components of the program.

3 (2) The expected roles and responsibilities of various program  
4 participants, including, but not limited to, private sector partners  
5 and local emergency personnel.

6 (3) The expected time schedule for completing the system and  
7 when it can start to provide alerts.

8 (4) A discussion of all reasonably foreseeable risks the program  
9 may encounter, including, but not limited to, risks associated with  
10 the program's finances, the reliability of the system, access to land  
11 for sensor placement, and changes in technology, The plan shall  
12 describe the office's strategies, processes, or other actions it intends  
13 to utilize to manage those risks.

14 (b) On or before February 1, 2019, and annually thereafter, the  
15 office shall report to the Legislature any changes to the business  
16 plan from the prior year and shall provide a general report on  
17 progress of the program and the implementation of the system.  
18 The report shall include, but not be limited to, all of the following:

19 (1) Overall progress of the implementation of the system.

20 (2) Update on funding acquired and expended.

21 (3) Update on contracts and requests for proposals.

22 (4) A summary of recommendations made by the board to the  
23 office.

24 SEC. 5. The Legislature finds and declares that Section 3 of  
25 this act, which adds Section 8587.11 to the Government Code,  
26 imposes a limitation on the public's right of access to the meetings  
27 of public bodies or the writings of public officials and agencies  
28 within the meaning of Section 3 of Article I of the California  
29 Constitution. Pursuant to that constitutional provision, the  
30 Legislature makes the following findings to demonstrate the interest  
31 protected by this limitation and the need for protecting that interest:

32 The development and implementation of the California  
33 Earthquake Early Warning System will help mitigate the loss of  
34 lives and property due to an earthquake. The need to protect the  
35 proprietary rights of owners of trade secrets relating to systems or  
36 products that may be incorporated into the California Earthquake  
37 Early Warning System and used within the California Earthquake  
38 Early Warning Program and the need to encourage the participation  
39 of those owners in the development and implementation of that

1 system and program outweigh publicly disclosing those trade  
2 secrets.

3 ~~SEC. 6. The sum of twenty-three million one hundred thousand~~  
4 ~~dollars (\$23,100,000) is hereby appropriated from the General~~  
5 ~~Fund to the Office of Emergency Services for the purpose of~~  
6 ~~implementing a comprehensive statewide earthquake early warning~~  
7 ~~system pursuant to Section 8587.8 of the Government Code.~~

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